

TITLE 78 RECODIFICATION - TITLE 78A**CHAPTERS 1 AND 2**

2008 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

Title 78A, Chapter 1, Judiciary, and Chapter 2, Judicial Administration.

Highlighted Provisions:

This bill:

►

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**RENUMBERS AND AMENDS:**

78A-1-101, (Renumbered from 78-1-1, as last amended by Laws of Utah 1996, Chapter 198)

78A-1-102, (Renumbered from 78-1-2.1, as enacted by Laws of Utah 1988, Chapter 115)

78A-1-103, (Renumbered from 78-1-2.2, as last amended by Laws of Utah 2006, Chapter 241)

78A-1-104, (Renumbered from 78-1-2.3, as last amended by Laws of Utah 2007, Chapter 319)

78A-1-105, (Renumbered from 78-1-2, as repealed and reenacted by Laws of Utah 1996, Chapter 198)

78A-2-101, (Renumbered from 78-3-18, as last amended by Laws of Utah 1988, Chapter 248)

78A-2-102, (Renumbered from 78-3-19, as last amended by Laws of Utah 1986, Chapter 47)

- 32 **78A-2-103**, (Renumbered from 78-3-20, as last amended by Laws of Utah 1988,
33 Chapter 248)
- 34 **78A-2-104**, (Renumbered from 78-3-21, as last amended by Laws of Utah 2003,
35 Chapters 51, and 332)
- 36 **78A-2-105**, (Renumbered from 78-3-23, as repealed and reenacted by Laws of Utah
37 1973, Chapter 202)
- 38 **78A-2-106**, (Renumbered from 78-3-22, as last amended by Laws of Utah 1986,
39 Chapter 47)
- 40 **78A-2-107**, (Renumbered from 78-3-24, as last amended by Laws of Utah 1997,
41 Chapter 10)
- 42 **78A-2-108**, (Renumbered from 78-3-25, as last amended by Laws of Utah 2007,
43 Chapter 324)
- 44 **78A-2-109**, (Renumbered from 78-3-26, as enacted by Laws of Utah 1973, Chapter
45 202)
- 46 **78A-2-110**, (Renumbered from 78-3-21.5, as enacted by Laws of Utah 1993, Chapter
47 11)
- 48 **78A-2-111**, (Renumbered from 78-3-27, as last amended by Laws of Utah 1988,
49 Chapter 248)
- 50 **78A-2-112**, (Renumbered from 78-3-24.1, as enacted by Laws of Utah 2005, First
51 Special Session, Chapter 4)
- 52 **78A-2-201**, (Renumbered from 78-7-5, as last amended by Laws of Utah 1988, Chapter
53 248)
- 54 **78A-2-202**, (Renumbered from 78-7-24, as repealed and reenacted by Laws of Utah
55 1988, Chapter 248)
- 56 **78A-2-203**, (Renumbered from 78-7-6, as last amended by Laws of Utah 2002, Chapter
57 216)
- 58 **78A-2-204**, (Renumbered from 78-7-14, as last amended by Laws of Utah 1988,
59 Chapter 248)
- 60 **78A-2-205**, (Renumbered from 78-7-15, as last amended by Laws of Utah 1988,
61 Chapter 248)
- 62 **78A-2-206**, (Renumbered from 78-7-22, as last amended by Laws of Utah 1988,

63 Chapter 248)
64 **78A-2-207**, (Renumbered from 78-7-32, as last amended by Laws of Utah 2001,
65 Chapter 255)
66 **78A-2-208**, (Renumbered from 78-7-3, as last amended by Laws of Utah 1995, Chapter
67 20)
68 **78A-2-209**, (Renumbered from 78-7-13, as last amended by Laws of Utah 1993,
69 Chapter 227)
70 **78A-2-210**, (Renumbered from 78-7-12, Utah Code Annotated 1953)
71 **78A-2-211**, (Renumbered from 78-7-7, Utah Code Annotated 1953)
72 **78A-2-212**, (Renumbered from 78-7-8, as last amended by Laws of Utah 1991, Chapter
73 268)
74 **78A-2-213**, (Renumbered from 78-7-21, Utah Code Annotated 1953)
75 **78A-2-214**, (Renumbered from 78-7-33, as last amended by Laws of Utah 2002,
76 Chapter 135)
77 **78A-2-215**, (Renumbered from 78-7-23, Utah Code Annotated 1953)
78 **78A-2-216**, (Renumbered from 78-7-44, as renumbered and amended by Laws of Utah
79 2001, Chapter 46)
80 **78A-2-217**, (Renumbered from 78-7-34, as last amended by Laws of Utah 2006,
81 Chapter 21)
82 **78A-2-218**, (Renumbered from 78-7-17, Utah Code Annotated 1953)
83 **78A-2-219**, (Renumbered from 78-7-16, Utah Code Annotated 1953)
84 **78A-2-220**, (Renumbered from 78-7-17.5, as last amended by Laws of Utah 2004,
85 Chapter 150)
86 **78A-2-221**, (Renumbered from 78-7-2, as enacted by Laws of Utah 1986, Chapter 47)
87 **78A-2-222**, (Renumbered from 78-7-1, as last amended by Laws of Utah 1990, Chapter
88 59)
89 **78A-2-223**, (Renumbered from 78-7-25, as last amended by Laws of Utah 1998,
90 Chapter 171)
91 **78A-2-224**, (Renumbered from 78-7-46, as enacted by Laws of Utah 2004, Chapter
92 344)

93 **78A-2-225**, (Renumbered from 78-7-9.5, as enacted by Laws of Utah 1988, Chapter
94 248)
95 **78A-2-226**, (Renumbered from 78-7-19, as last amended by Laws of Utah 1996,
96 Chapter 198)
97 **78A-2-227**, (Renumbered from 78-7-9, as last amended by Laws of Utah 2002, Chapter
98 168)
99 **78A-2-228**, (Renumbered from 78-7-45, as last amended by Laws of Utah 2002,
100 Chapter 168)
101 **78A-2-301**, (Renumbered from 78-7-35, as last amended by Laws of Utah 2007,
102 Chapters 301, and 326)
103 **78A-2-302**, (Renumbered from 78-7-36, as renumbered and amended by Laws of Utah
104 2001, Chapter 46)
105 **78A-2-303**, (Renumbered from 78-7-43, as renumbered and amended by Laws of Utah
106 2001, Chapter 46)
107 **78A-2-304**, (Renumbered from 78-7-37, as renumbered and amended by Laws of Utah
108 2001, Chapter 46)
109 **78A-2-305**, (Renumbered from 78-7-38, as renumbered and amended by Laws of Utah
110 2001, Chapter 46)
111 **78A-2-306**, (Renumbered from 78-7-39, as renumbered and amended by Laws of Utah
112 2001, Chapter 46)
113 **78A-2-307**, (Renumbered from 78-7-40, as renumbered and amended by Laws of Utah
114 2001, Chapter 46)
115 **78A-2-308**, (Renumbered from 78-7-41, as renumbered and amended by Laws of Utah
116 2001, Chapter 46)
117 **78A-2-309**, (Renumbered from 78-7-42, as renumbered and amended by Laws of Utah
118 2001, Chapter 46)
119 **78A-2-401**, (Renumbered from 78-56-101, as enacted by Laws of Utah 1997, Chapter
120 372)
121 **78A-2-402**, (Renumbered from 78-56-102, as last amended by Laws of Utah 2004,
122 Chapter 77)
123 **78A-2-403**, (Renumbered from 78-56-103, as last amended by Laws of Utah 2004,

124 Chapter 77)
125 **78A-2-404**, (Renumbered from 78-56-104, as last amended by Laws of Utah 2004,
126 Chapter 77)
127 **78A-2-405**, (Renumbered from 78-56-105, as renumbered and amended by Laws of
128 Utah 1997, Chapter 372)
129 **78A-2-406**, (Renumbered from 78-56-106, as last amended by Laws of Utah 2004,
130 Chapter 77)
131 **78A-2-407**, (Renumbered from 78-56-107, as renumbered and amended by Laws of
132 Utah 1997, Chapter 372)
133 **78A-2-408**, (Renumbered from 78-56-108, as last amended by Laws of Utah 2001,
134 Chapter 46)
135 **78A-2-409**, (Renumbered from 78-56-109, as renumbered and amended by Laws of
136 Utah 1997, Chapter 372)
137 **78A-2-410**, (Renumbered from 78-56-110, as renumbered and amended by Laws of
138 Utah 1997, Chapter 372)
139 **78A-2-411**, (Renumbered from 78-56-111, as renumbered and amended by Laws of
140 Utah 1997, Chapter 372)
141 **78A-2-501**, (Renumbered from 78-28-1, as last amended by Laws of Utah 2001,
142 Chapter 46)
143 **78A-2-502**, (Renumbered from 78-28-2, as last amended by Laws of Utah 2000,
144 Chapter 112)
145 **78A-2-601**, (Renumbered from 63-63c-101, as enacted by Laws of Utah 2003, Chapter
146 340)
147 **78A-2-602**, (Renumbered from 63-63c-102, as last amended by Laws of Utah 2004,
148 Chapter 301)
149 REPEALS:
150 **78-3-17.5**, as enacted by Laws of Utah 1988, Chapter 152
151 **78-7-4**, Utah Code Annotated 1953
152 **78-7-18**, as last amended by Laws of Utah 1995, Chapter 20
153 **78-7-20**, as last amended by Laws of Utah 1995, Chapter 20

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78A-1-101**, which is renumbered from Section 78-1-1 is renumbered and amended to read:

Part 1. Judiciary

~~[78-1-1].~~ **78A-1-101. Courts of justice enumerated -- Courts of record enumerated.**

(1) The following are the courts of justice of this state:

(a) the Supreme Court;

(b) the Court of Appeals;

(c) the district courts;

(d) the juvenile courts; and

(e) the justice courts.

(2) All courts are courts of record, except the justice courts, which are courts not of record.

Section 2. Section **78A-1-102**, which is renumbered from Section 78-1-2.1 is renumbered and amended to read:

~~[78-1-2.1].~~ **78A-1-102. Trial courts of record -- Divisions.**

The ~~[trial]~~ district and juvenile courts ~~[of record]~~ shall be divided into eight geographical divisions:

(1) First District - Box Elder, Cache, and Rich Counties;

(2) Second District - Weber, Davis, and Morgan Counties;

(3) Third District - Salt Lake, Summit, and Tooele Counties;

(4) Fourth District - Utah, Wasatch, Juab, and Millard Counties;

(5) Fifth District - Beaver, Iron, and Washington Counties;

(6) Sixth District - Garfield, Kane, Piute, Sanpete, Sevier, and Wayne Counties;

(7) Seventh District - Carbon, Emery, Grand, and San Juan Counties; and

(8) Eighth District - Daggett, Duchesne, and Uintah Counties.

Section 3. Section **78A-1-103**, which is renumbered from Section 78-1-2.2 is renumbered and amended to read:

~~[78-1-2.2].~~ **78A-1-103. Number of district judges.**

The number of district court judges shall be:

- (1) four district judges in the First District;
- (2) 14 district judges in the Second District;
- (3) 28 district judges in the Third District;
- (4) 13 district judges in the Fourth District;
- (5) five district judges in the Fifth District;
- (6) two district judges in the Sixth District;
- (7) three district judges in the Seventh District; and
- (8) two district judges in the Eighth District.

Section 4. Section **78A-1-104**, which is renumbered from Section 78-1-2.3 is renumbered and amended to read:

[78-1-2.3]. 78A-1-104. Number of juvenile judges and jurisdictions.

The number of juvenile court judges shall be:

- (1) two juvenile judges in the First Juvenile District;
- (2) six juvenile judges in the Second Juvenile District;
- (3) ten juvenile judges in the Third Juvenile District;
- (4) four juvenile judges in the Fourth Juvenile District;
- (5) two juvenile judges in the Fifth Juvenile District;
- (6) one juvenile judge in the Sixth Juvenile District;
- (7) two juvenile judges in the Seventh Juvenile District; and
- (8) one juvenile judge in the Eighth Juvenile District.

Section 5. Section **78A-1-105**, which is renumbered from Section 78-1-2 is renumbered and amended to read:

[78-1-2]. 78A-1-105. Merger of district court and circuit court.

(1) Effective July 1, 1996, the circuit court shall be merged into the district court. The district court shall have jurisdiction as provided by law for the district court and shall have jurisdiction over all matters filed in the court formerly denominated the circuit court.

(2) The district court shall continue the judicial offices, judges, staff, cases, authority, duties, and all other attributes of the court formerly denominated the circuit court.

(3) Judges of the court formerly denominated the circuit court shall:

- (a) on July 1, 1996, be judges of the district court; and

(b) next stand for retention election at the first general election held more than three years after their appointment or at the general election held in the sixth year after their last retention election, as applicable.

Section 6. Section **78A-2-101**, which is renumbered from Section 78-3-18 is renumbered and amended to read:

CHAPTER 2. JUDICIAL ADMINISTRATION

Part 1. Judicial Administration

[78-3-18]. 78A-2-101. Title.

This act is known and may be cited as the "Judicial Administration Act."

Section 7. Section **78A-2-102**, which is renumbered from Section 78-3-19 is renumbered and amended to read:

[78-3-19]. 78A-2-102. Purpose.

The purpose of this act is to create an administrative system for all courts of this state, subject to central direction by the Judicial Council, to enable these courts to provide uniformity and coordination in the administration of justice.

Section 8. Section **78A-2-103**, which is renumbered from Section 78-3-20 is renumbered and amended to read:

[78-3-20]. 78A-2-103. Definitions.

As used in this act:

(1) "Administrator" means the administrator of the courts appointed under Section [78-3-23] 78A-2-105.

(2) "Conference" means the annual statewide judicial conference established by Section [78-3-27] 78A-2-111.

(3) "Council" means the Judicial Council established by Article VIII, Sec. 12, Utah Constitution.

(4) "Courts" mean all courts of this state, including all courts of record and not of record.

Section 9. Section **78A-2-104**, which is renumbered from Section 78-3-21 is renumbered and amended to read:

[78-3-21]. 78A-2-104. Judicial Council -- Creation -- Members -- Terms and election -- Responsibilities -- Reports.

(1) The Judicial Council, established by Article VIII, Section 12, Utah Constitution, shall be composed of:

(a) the chief justice of the Supreme Court;

(b) one member elected by the justices of the Supreme Court;

(c) one member elected by the judges of the Court of Appeals;

(d) five members elected by the judges of the district courts;

(e) two members elected by the judges of the juvenile courts;

(f) three members elected by the justice court judges; and

(g) a member or ex officio member of the Board of Commissioners of the Utah State Bar who is an active member of the Bar in good standing ~~[elected]~~ at the time of election by the Board of Commissioners.

(2) The Judicial Council shall have a seal.

~~[(2)]~~ (3) (a) The chief justice of the Supreme Court shall act as presiding officer of the council and chief administrative officer for the courts. The chief justice shall vote only in the case of a tie.

(b) All members of the council shall serve for three-year terms.

(i) If a council member should die, resign, retire, or otherwise fail to complete a term of office, the appropriate constituent group shall elect a member to complete the term of office.

(ii) In courts having more than one member, the members shall be elected to staggered terms. ~~[The person elected to the Judicial Council by the Board of Commissioners shall be a member or ex officio member of the Board of Commissioners and an active member of the Bar in good standing at the time the person is elected.]~~

(iii) The person elected by the Board of Commissioners may complete a three-year term of office on the Judicial Council even though the person ceases to be a member or ex officio member of the Board of Commissioners. The person shall be an active member of the Bar in good standing for the entire term of the Judicial Council.

(c) Elections shall be held under rules made by the Judicial Council.

~~[(3)]~~ (4) The council is responsible for the development of uniform administrative policy for the courts throughout the state. The presiding officer of the Judicial Council is responsible for the implementation of the policies developed by the council and for the general management of the courts, with the aid of the administrator. The council has authority and

278 responsibility to:

279 (a) establish and assure compliance with policies for the operation of the courts,
280 including uniform rules and forms; and

281 (b) publish and submit to the governor, the chief justice of the Supreme Court, and the
282 Legislature an annual report of the operations of the courts, which shall include financial and
283 statistical data and may include suggestions and recommendations for legislation.

284 [~~(4)~~] (5) (a) The Judicial Council shall make rules establishing:

285 (i) standards for judicial competence; and

286 (ii) a formal program for the evaluation of judicial performance containing the
287 elements of and meeting the requirements of this Subsection [~~(4)~~] (5).

288 (b) The Judicial Council shall ensure that the formal judicial performance evaluation
289 program has improvement in the performance of individual judges, court commissioners, and
290 the judiciary as its goal.

291 (c) The Judicial Council shall ensure that the formal judicial performance evaluation
292 program includes at least all of the following elements:

293 (i) a requirement that judges complete a certain number of hours of approved judicial
294 education each year;

295 (ii) a requirement that each judge certify that he is:

296 (A) physically and mentally competent to serve; and

297 (B) in compliance with the Codes of Judicial Conduct and Judicial Administration; and

298 (iii) a requirement that the judge receive a satisfactory score on questions identified by
299 the Judicial Council as relating to judicial certification on a survey of members of the Bar
300 developed by the Judicial Council in conjunction with the American Bar Association.

301 (d) The Judicial Council shall ensure that the formal judicial performance evaluation
302 program considers at least the following criteria:

303 (i) integrity;

304 (ii) knowledge;

305 (iii) understanding of the law;

306 (iv) ability to communicate;

307 (v) punctuality;

308 (vi) preparation;

- 309 (vii) attentiveness;
- 310 (viii) dignity;
- 311 (ix) control over proceedings; and
- 312 (x) skills as a manager.

313 (e) (i) The Judicial Council shall provide the judicial performance evaluation
314 information and the disciplinary data required by Subsection 20A-7-702(2) to the Lieutenant
315 Governor for publication in the voter information pamphlet.

316 (ii) Not later than August 1 of the year before the expiration of the term of office of a
317 justice court judge, the Judicial Council shall provide the judicial performance evaluation
318 information required by Subsection 20A-7-702(2) to the appointing authority of a justice court
319 judge.

320 ~~[(5)]~~ (6) The council shall establish standards for the operation of the courts of the state
321 including, but not limited to, facilities, court security, support services, and staff levels for
322 judicial and support personnel.

323 ~~[(6)]~~ (7) The council shall by rule establish the time and manner for destroying court
324 records, including computer records, and shall establish retention periods for these records.

325 ~~[(7)]~~ (8) (a) Consistent with the requirements of judicial office and security policies,
326 the council shall establish procedures to govern the assignment of state vehicles to public
327 officers of the judicial branch.

328 (b) The vehicles shall be marked in a manner consistent with Section 41-1a-407 and
329 may be assigned for unlimited use, within the state only.

330 ~~[(8)]~~ (9) (a) The council shall advise judicial officers and employees concerning ethical
331 issues and shall establish procedures for issuing informal and formal advisory opinions on
332 these issues.

333 (b) Compliance with an informal opinion is evidence of good faith compliance with the
334 Code of Judicial Conduct.

335 (c) A formal opinion constitutes a binding interpretation of the Code of Judicial
336 Conduct.

337 ~~[(9)]~~ (10) (a) The council shall establish written procedures authorizing the presiding
338 officer of the council to appoint judges of courts of record by special or general assignment to
339 serve temporarily in another level of court in a specific court or generally within that level.

The appointment shall be for a specific period and shall be reported to the council.

(b) These procedures shall be developed in accordance with Subsection ~~[78-3-24]~~
78A-2-107(10) regarding temporary appointment of judges.

~~[(10)]~~ (11) The Judicial Council may by rule designate municipalities in addition to those designated by statute as a location of a trial court of record. There shall be at least one court clerk's office open during regular court hours in each county. Any trial court of record may hold court in any municipality designated as a location of a court of record. Designations by the Judicial Council may not be made between July 1, 1997, and July 1, 1998.

~~[(11)]~~ (12) The Judicial Council shall by rule determine whether the administration of a court shall be the obligation of the administrative office of the courts or whether the administrative office of the courts should contract with local government for court support services.

~~[(12)]~~ (13) The Judicial Council may by rule direct that a district court location be administered from another court location within the county.

~~[(13)]~~ (14) The Judicial Council shall establish and supervise the Office of Guardian Ad Litem Director, in accordance with ~~[the provisions of Sections 78-3a-911 and 78-3a-912]~~
Title 78A, Chapter 6, Part 9, Guardian Ad Litem, and assure compliance of the guardian ad litem program with state and federal law, regulation, ~~[and]~~ policy, and court rules.

~~[(14)]~~ (15) The Judicial Council shall establish and maintain, in cooperation with the Office of Recovery Services within the Department of Human Services, the part of the state case registry that contains records of each support order established or modified in the state on or after October 1, 1998, as is necessary to comply with the Social Security Act, 42 U.S.C. Sec. 654a.

~~[(15) (a) On or before November 1, 2003, the Judicial Council, by rule, shall select one or more districts as pilot districts for purposes of Sections 78-3a-115, 78-3a-115.1, and 78-3a-116.]~~

~~[(b) Prior to the 2005 Annual General Session, the Judicial Council shall report to the Child Welfare Legislative Oversight Panel and the Judiciary Interim Committee on the effects of Chapter 332, Laws of Utah 2003 and recommend whether the provisions of Chapter 332, Laws of Utah 2003 should be continued, modified, or repealed.]~~

Section 10. Section **78A-2-105**, which is renumbered from Section 78-3-23 is

371 renumbered and amended to read:

372 ~~[78-3-23].~~ **78A-2-105. Administrator of the courts -- Appointment --**
373 **Qualifications -- Salary.**

374 The Supreme Court shall appoint a chief administrative officer of the council who shall
375 have the title of the administrator of the courts and shall serve at the pleasure of the council
376 and/or the Supreme Court. The administrator shall be selected on the basis of professional
377 ability and experience in the field of public administration and shall possess an understanding
378 of court procedures as well as of the nature and significance of other court services. He shall
379 devote his full time and attention to the duties of his office, and shall receive a salary equal to
380 that of a district court judge.

381 Section 11. Section **78A-2-106**, which is renumbered from Section 78-3-22 is
382 renumbered and amended to read:

383 ~~[78-3-22].~~ **78A-2-106. Presiding officer -- Compensation -- Duties.**

384 (1) The chief justice of the Supreme Court shall serve as the presiding officer of the
385 Judicial Council. The presiding officer shall receive as additional compensation the sum of
386 \$1,000 per annum or fraction thereof for the period served.

387 (2) The presiding officer of the Judicial Council shall supervise the courts to ensure
388 uniform adherence to law and to the rules and forms adopted by the council and to promote the
389 proper and efficient functioning of the courts. The presiding officer of the council may issue
390 orders as necessary to assure compliance with uniform administrative practices.

391 Section 12. Section **78A-2-107**, which is renumbered from Section 78-3-24 is
392 renumbered and amended to read:

393 ~~[78-3-24].~~ **78A-2-107. Court administrator -- Powers, duties, and**
394 **responsibilities.**

395 Under the general supervision of the presiding officer of the Judicial Council, and
396 within the policies established by the council, the administrator shall:

- 397 (1) organize and administer all of the nonjudicial activities of the courts;
398 (2) assign, supervise, and direct the work of the nonjudicial officers of the courts;
399 (3) implement the standards, policies, and rules established by the council;
400 (4) formulate and administer a system of personnel administration, including in-service
401 training programs;

(5) prepare and administer the state judicial budget, fiscal, accounting, and procurement activities for the operation of the courts of record, and assist justices' courts in their budgetary, fiscal, and accounting procedures;

(6) conduct studies of the business of the courts, including the preparation of recommendations and reports relating to them;

(7) develop uniform procedures for the management of court business, including the management of court calendars;

(8) maintain liaison with the governmental and other public and private groups having an interest in the administration of the courts;

(9) establish uniform policy concerning vacations and sick leave for judges and nonjudicial officers of the courts;

(10) establish uniform hours for court sessions throughout the state and may, with the consent of the presiding officer of the Judicial Council, call and appoint justices or judges of courts of record to serve temporarily as Court of Appeals, district court, or juvenile court judges and set reasonable compensation for their services;

(11) when necessary for administrative reasons, change the county for trial of any case if no party to the litigation files timely objections to this change;

(12) organize and administer a program of continuing education for judges and support staff, including training for justice court judges;

(13) provide for an annual meeting for each level of the courts of record, and the annual judicial conference; and

(14) perform other duties as assigned by the presiding officer of the council.

Section 13. Section **78A-2-108**, which is renumbered from Section 78-3-25 is renumbered and amended to read:

~~[78-3-25]~~. **78A-2-108. Assistants for administrator of the courts --**

Appointment of trial court executives -- Case management program coordinators.

(1) The administrator of the courts, with the approval of the presiding officer of the council, is responsible for the establishment of positions and salaries of assistants as necessary to enable him to perform the powers and duties vested in him by this chapter, including the positions of appellate court administrator, district court administrator, juvenile court administrator, and justices' court administrator, whose appointments shall be made by the

433 administrator of the courts with the concurrence of the respective boards as established by the
434 council.

435 (2) The district court administrator, with the concurrence of the presiding judge of a
436 district or the district court judge in single judge districts, may appoint in each district a trial
437 court executive. The trial court executive may appoint, subject to budget limitations, necessary
438 support personnel including clerks, research clerks, secretaries, and other persons required to
439 carry out the work of the court. The trial court executive shall supervise the work of all
440 nonjudicial court staff and serve as administrative officer of the district.

441 (3) Administrators and assistants appointed under this section shall be known
442 collectively as the Administrative Office of the Courts.

443 (4) (a) There is established in the district and juvenile courts of the Third Judicial
444 District the position of case management program coordinator. The requirements for this
445 position are as follows:

446 (i) a graduate degree in court administration; or

447 (ii) a graduate degree in business or public administration supplemented with course
448 work in case management.

449 (b) The case management coordinator shall be appointed and supervised by the
450 respective trial court executives.

451 (c) The case management program coordinator shall, in conjunction with judges, staff,
452 and others:

453 (i) develop, institute, monitor, and evaluate case management practices for all case
454 types; and

455 (ii) encourage and facilitate the implementation of problem solving courts, mediation,
456 case coordination, and similar programs to improve the dispute resolution process, outcomes,
457 and the use of court resources, including available calendar time.

458 (d) The administrator of the courts shall report to the Judiciary Interim Committee not
459 later than November 30, 2008 on the efficiency and effectiveness of the case management
460 program. The report shall contain a recommendation on whether to expand the case
461 management program statewide.

462 (e) The case management coordinator positions will expire on June 30, 2009, unless
463 reauthorized by the Legislature.

Section 14. Section **78A-2-109**, which is renumbered from Section 78-3-26 is renumbered and amended to read:

~~[78-3-26].~~ 78A-2-109. Courts to provide information and statistical data to administrator of the courts.

The judges, clerks of the courts, and all other officers, state and local, shall comply with all requests made by the administrator or his assistants for information and statistical data bearing on the state of the dockets of the courts and such other information as may reflect the business transacted by them and the expenditure of public moneys for the maintenance and operation of the judicial system.

Section 15. Section **78A-2-110**, which is renumbered from Section 78-3-21.5 is renumbered and amended to read:

~~[78-3-21.5].~~ 78A-2-110. Data bases for judicial boards.

(1) As used in this section, "judicial board" means any judicial branch board, commission, council, committee, working group, task force, study group, advisory group, or other body with a defined limited membership that is created to operate for more than six months by the constitution, by statute, by judicial order, by any justice or judge, by the Judicial Council, or by the state court administrator, a district court administrator, trial court executive, or by any clerk or administrator in the judicial branch of state government.

(2) The Judicial Council shall designate a person from its staff to maintain a computerized data base containing information about all judicial boards.

(3) The person designated to maintain the data base shall ensure that the data base contains:

- (a) the name of the judicial board;
- (b) the statutory or constitutional authority for the creation of the judicial board;
- (c) the court or other judicial entity under whose jurisdiction the judicial board operates or with which the judicial board is affiliated, if any;
- (d) the name, address, gender, telephone number, and county of each person currently serving on the judicial board, along with a notation of all vacant or unfilled positions;
- (e) the title of the position held by the person who appointed each member of the judicial board;
- (f) the length of the term to which each member of the judicial board was appointed

495 and the month and year that each judicial board member's term expires;

496 (g) the organization, interest group, profession, local government entity, or geographic

497 area that the member of the judicial board represents, if any;

498 (h) whether or not the judicial board allocates state or federal funds and the amount of

499 those funds allocated during the last fiscal year;

500 (i) whether the judicial board is a policy board or an advisory board;

501 (j) whether or not the judicial board has or exercises rulemaking authority; and

502 (k) any compensation and expense reimbursement that members of the executive board

503 are authorized to receive.

504 (4) The person designated to maintain the data base shall:

505 (a) make the information contained in the data base available to the public upon

506 request; and

507 (b) cooperate with other entities of state government to publish the data or useful

508 summaries of the data.

509 (5) (a) The person designated to maintain the data bases shall prepare, publish, and

510 distribute an annual report by April 1 of each year that includes, as of March 1 of that year:

511 (i) the total number of judicial boards;

512 (ii) the name of each of those judicial boards and the court, council, administrator,

513 executive, or clerk under whose jurisdiction the executive board operates or with which the

514 judicial board is affiliated, if any;

515 (iii) for each court, council, administrator, executive, or clerk, the total number of

516 judicial boards under the jurisdiction of or affiliated with that court, council, administrator,

517 executive, or clerk;

518 (iv) the total number of members for each of those judicial boards;

519 (v) whether each board is a policymaking board or an advisory board and the total

520 number of policy boards and the total number of advisory boards; and

521 (vi) the compensation, if any, paid to the members of each of those judicial boards.

522 (b) The person designated to maintain the data bases shall distribute copies of the

523 report to:

524 (i) the chief justice of the Utah Supreme Court;

525 (ii) the state court administrator;

- (iii) the governor;
- (iv) the president of the Utah Senate;
- (v) the speaker of the Utah House;
- (vi) the Office of Legislative Research and General Counsel; and
- (vii) any other persons who request a copy of the annual report.

Section 16. Section **78A-2-111**, which is renumbered from Section 78-3-27 is renumbered and amended to read:

[78-3-27]. 78A-2-111. Annual judicial conference.

(1) There is established an annual judicial conference for all courts of this state, to facilitate the exchange of ideas among all courts and judges, and to study and improve the administration of the courts.

(2) All elections provided in this act shall be conducted during the annual judicial conference.

Section 17. Section **78A-2-112**, which is renumbered from Section 78-3-24.1 is renumbered and amended to read:

[78-3-24.1]. 78A-2-112. Grants to nonprofit legal assistance organization.

Subject to legislative appropriation, the state court administrator shall, in accordance with Title 63, Chapter 56, Utah Procurement Code, solicit requests for proposals and award grants to nonprofit legal assistance providers to provide legal assistance throughout the state to:

- (1) low to moderate income victims of domestic violence; and
- (2) low to moderate income individuals in family law matters.

Section 18. Section **78A-2-201**, which is renumbered from Section 78-7-5 is renumbered and amended to read:

Part 2. General Provisions Applicable to Courts and Judges

[78-7-5]. 78A-2-201. Powers of every court.

Every court has authority to:

- (1) preserve and enforce order in its immediate presence;
- (2) enforce order in the proceedings before it, or before a person authorized to conduct a judicial investigation under its authority;
- (3) provide for the orderly conduct of proceedings before it or its officers;
- (4) compel obedience to its judgments, orders, and process, and to the orders of a judge

557 out of court, in a pending action or proceeding;

558 (5) control in furtherance of justice the conduct of its ministerial officers, and of all
559 other persons in any manner connected with a judicial proceeding before it in every matter;

560 (6) compel the attendance of persons to testify in a pending action or proceeding, as
561 provided by law;

562 (7) administer oaths in a pending action or proceeding, and in all other cases where
563 necessary in the exercise of its authority and duties;

564 (8) amend and control its process and orders to conform to law and justice;

565 (9) devise and make new process and forms of proceedings, consistent with law,
566 necessary to carry into effect its authority and jurisdiction; and

567 (10) enforce rules of the Supreme Court and Judicial Council.

568 Section 19. Section **78A-2-202**, which is renumbered from Section 78-7-24 is
569 renumbered and amended to read:

570 **[78-7-24]. 78A-2-202. Courts of justice -- Authority.**

571 (1) All courts of justice have the authority necessary to exercise their jurisdiction.

572 (2) If a procedure for an action is not established, a process may be adopted that
573 conforms with the apparent intent of the statute or rule of procedure.

574 Section 20. Section **78A-2-203**, which is renumbered from Section 78-7-6 is
575 renumbered and amended to read:

576 **[78-7-6]. 78A-2-203. Rules -- Right to make -- Limitation -- Security.**

577 (1) Every court of record may make rules, not inconsistent with law, for its own
578 government and the government of its officers; but such rules must neither impose any tax or
579 charge upon any legal proceeding nor give any allowance to any officer for service.

580 (2) (a) The judicial council may provide, through the rules of judicial administration,
581 for security in or about a courthouse or courtroom, or establish a secure area as prescribed in
582 Section 76-8-311.1.

583 (b) (i) If the council establishes a secure area under Subsection (2)(a), it shall provide a
584 secure firearms storage area on site so that persons with lawfully carried firearms may store
585 them while they are in the secure area.

586 (ii) The entity operating the facility with the secure area shall be responsible for the
587 firearms while they are stored in the storage area referred to in Subsection (2)(b)(i).

(iii) The entity may not charge a fee to individuals for storage of their firearms under

Subsection (2)(b)(i).

(3) (a) Unless authorized by the rules of judicial administration, any person who knowingly or intentionally possesses a firearm, ammunition, or dangerous weapon within a secure area established by the judicial council under this section is guilty of a third degree felony.

(b) Any person is guilty of violating Section 76-10-306 who transports, possesses, distributes, or sells an explosive, chemical, or incendiary device, as defined by Section 76-10-306, within a secure area, established by the Judicial Council under this section.

Section 21. Section **78A-2-204**, which is renumbered from Section 78-7-14 is renumbered and amended to read:

[78-7-14]. 78A-2-204. Judicial Council and courts have seals.

The Judicial Council [~~shall have a seal and~~] shall approve a seal for all courts of justice.

Section 22. Section **78A-2-205**, which is renumbered from Section 78-7-15 is renumbered and amended to read:

[78-7-15]. 78A-2-205. When seal is affixed.

The seal of the court need not be affixed to any document of the court, except to:

(1) a writ;

(2) a certificate of the probate of a will, or of appointment of an executor, administrator, or guardian; or

(3) the authentication of:

(a) a copy of a record or document on file with the court; or

(b) the signature of an officer of the court.

Section 23. Section **78A-2-206**, which is renumbered from Section 78-7-22 is renumbered and amended to read:

[78-7-22]. 78A-2-206. English language for proceedings.

Judicial proceedings shall be conducted in the English language.

Section 24. Section **78A-2-207**, which is renumbered from Section 78-7-32 is renumbered and amended to read:

[78-7-32]. 78A-2-207. Domestic relations cases -- Party designation.

Parties in domestic relations cases, including divorce, annulment, property division,

child custody, support, parent-time, adoption, and paternity, shall be designated as petitioner and respondent.

Section 25. Section **78A-2-208**, which is renumbered from Section 78-7-3 is renumbered and amended to read:

[78-7-3]. 78A-2-208. Sittings of courts -- To be public.

(1) The sittings of every court of justice are public, except as provided in ~~[Section 78-7-4]~~ Subsections (2) and (3).

(2) The court may, in its discretion, during the examination of a witness exclude any and all other witnesses in the proceedings.

(3) In an action of divorce, criminal conversation, seduction, abortion, rape, or assault with intent to commit rape, the court may, in its discretion, exclude all persons who do not have a direct interest in the proceedings, except jurors, witnesses and officers of the court.

Section 26. Section **78A-2-209**, which is renumbered from Section 78-7-13 is renumbered and amended to read:

[78-7-13]. 78A-2-209. Sheriff to supply court rooms when the county legislative body neglects.

If suitable rooms for holding the district court and for chambers of the judge are not provided in the place appointed for holding ~~[said]~~ court in any county, together with attendants, furniture, lights, and stationery sufficient for the transaction of business, the court or the judge ~~[thereof]~~ may direct the sheriff to provide ~~[such]~~ rooms, attendants, furniture, fuel, lights and stationery~~[; and the]~~. All expenses incurred, certified by the judge to be correct, are a charge against the county and ~~[must]~~ shall be paid out of the county's general fund ~~[thereof]~~.

Section 27. Section **78A-2-210**, which is renumbered from Section 78-7-12 is renumbered and amended to read:

[78-7-12]. 78A-2-210. Change of place of trial because of calamity.

~~[The judge or judges authorized to hold or preside at a court appointed to be held in a county, city or town may, by an order filed with the clerk and published as he or they may prescribe, direct that the court may be held or continued at any other place in the city, town or county than that appointed, when war, insurrection, pestilence or other public calamity, or danger thereof, or the destruction of or danger to the building appointed for holding courts, may render it necessary, and may in the same manner revoke the order, and in his or their~~

~~discretion appoint another place in the same city, town or county for holding court.]~~

(1) The presiding judge may order court proceedings to be held at another location within the jurisdiction if the presiding judge determines it is necessary because of:

(a) war;

(b) insurrection;

(c) pestilence;

(d) public calamity or natural disaster; or

(e) destruction of or danger to the building in which court is held.

(2) Any order to move court proceedings shall be reduced to writing and filed with the clerk of the court for publication.

Section 28. Section **78A-2-211**, which is renumbered from Section 78-7-7 is renumbered and amended to read:

~~[78-7-7].~~ 78A-2-211. Court days.

Courts of justice are open and judicial business may be transacted on any day, except as ~~[otherwise]~~ provided in Section 78A-2-212.

Section 29. Section **78A-2-212**, which is renumbered from Section 78-7-8 is renumbered and amended to read:

~~[78-7-8].~~ 78A-2-212. Days on which court closed -- Exceptions.

Judicial business on Sunday, on any day on which general election is held, or on any legal holiday, is limited to the following purposes:

(1) to give, upon their request, instructions to a jury when deliberating on their verdict;

(2) to receive a verdict or discharge a jury;

(3) for the exercise of the powers of a magistrate in a criminal action, or in a proceeding of a criminal nature; and

(4) judicial business not involving a trial or hearing unless the judge finds it necessary for the fair administration of justice.

Section 30. Section **78A-2-213**, which is renumbered from Section 78-7-21 is renumbered and amended to read:

~~[78-7-21].~~ 78A-2-213. Proceedings unaffected by vacancy in office of judge.

No proceeding in any court of justice~~[, in an action or special proceeding pending therein,]~~ is affected by a vacancy in the office of all or any of the judges, or by the failure of a

681 term ~~[thereof]~~ of a judge.

682 Section 31. Section **78A-2-214**, which is renumbered from Section 78-7-33 is
683 renumbered and amended to read:

684 ~~[78-7-33].~~ **78A-2-214. Collection of accounts receivable.**

685 (1) As used in this section:

686 (a) "Accounts receivable" means any amount due the state from an entity for which
687 payment has not been received by the state agency that is servicing the debt.

688 (b) "Accounts receivable" includes unpaid fees, licenses, taxes, loans, overpayments,
689 fines, forfeitures, surcharges, costs, contracts, interest, penalties, restitution to victims, third
690 party claims, sale of goods, sale of services, claims, and damages.

691 (2) If the Department of Corrections does not have responsibility under Subsection
692 77-18-1(9) for collecting an account receivable and if the Office of State Debt Collection does
693 not have responsibility under Subsection 63A-8-201(6), the district court shall collect the
694 account receivable.

695 (3) (a) In the juvenile court, monies collected by the court from past-due accounts
696 receivable may be used to offset system, administrative, legal, and other costs of collection.

697 (b) The juvenile court shall allocate monies collected above the cost of collection on a
698 pro rata basis to the various revenue types that generated the accounts receivable.

699 (4) The interest charge established by the Office of State Debt Collection under
700 Subsection 63A-8-201(4)(g)(iii) may not be assessed on an account receivable subject to the
701 postjudgment interest rate established by Section 15-1-4.

702 Section 32. Section **78A-2-215**, which is renumbered from Section 78-7-23 is
703 renumbered and amended to read:

704 ~~[78-7-23].~~ **78A-2-215. Abbreviations and numerals may be used.**

705 ~~[Such]~~ Common abbreviations ~~[as are in common use]~~ may be used, and numbers may
706 be expressed by customary figures or numerals in ~~[the customary manner]~~ court documents.

707 Section 33. Section **78A-2-216**, which is renumbered from Section 78-7-44 is
708 renumbered and amended to read:

709 ~~[78-7-44].~~ **78A-2-216. Fees for writ of garnishment -- Single or continuing.**

710 (1) Any creditor who serves or causes to be served a writ of garnishment upon the
711 garnishee shall pay to the garnishee:

712 (a) \$10 for a single garnishment; and

713 (b) \$25 for a continuing garnishment.

714 (2) The creditor shall pay the fee directly to the garnishee.

715 Section 34. Section **78A-2-217**, which is renumbered from Section 78-7-34 is

716 renumbered and amended to read:

717 **[78-7-34]. 78A-2-217. Electronic writing.**

718 (1) Except as restricted by the Constitution of the United States or of this state, any

719 writing required or permitted by this code to be filed with or prepared by a court may be filed

720 or prepared in an electronic medium and by electronic transmission subject to the ability of the

721 recipient to accept and process the electronic writing.

722 (2) Any writing required to be signed that is filed with or prepared by a court in an

723 electronic medium or by electronic transmission shall be signed by electronic signature in

724 accordance with Title 46, Chapter 4, Uniform Electronic Transactions Act.

725 Section 35. Section **78A-2-218**, which is renumbered from Section 78-7-17 is

726 renumbered and amended to read:

727 **[78-7-17]. 78A-2-218. Powers of every judicial officer.**

728 Every judicial officer has power:

729 (1) to preserve and enforce order in his immediate presence, and in proceedings before
730 him, when he is engaged in the performance of official duty;

731 (2) to compel obedience to his lawful orders as provided by law;

732 (3) to compel the attendance of persons to testify in a proceeding before him in the
733 cases and manner provided by law;

734 (4) to administer oaths to persons in a proceeding pending before him, and in all other
735 cases where it may be necessary in the exercise of his powers and duties[-]; and

736 (5) punish for contempt as provided by law to enforce compliance with Subsections (1)
737 through (4).

738 Section 36. Section **78A-2-219**, which is renumbered from Section 78-7-16 is

739 renumbered and amended to read:

740 **[78-7-16]. 78A-2-219. Powers of judge contradistinguished from court.**

741 A judge may exercise out of court all the powers expressly conferred upon a judge as

742 contradistinguished from the court.

Section 37. Section **78A-2-220**, which is renumbered from Section 78-7-17.5 is renumbered and amended to read:

[78-7-17.5]. 78A-2-220. Authority of magistrate.

(1) Except as otherwise provided by law, a magistrate as defined in Section 77-1-3 shall have the authority to:

- (a) commit a person to incarceration prior to trial;
- (b) set or deny bail under Section 77-20-1 and release upon the payment of bail and satisfaction of any other conditions of release;
- (c) issue to any place in the state summonses and warrants of search and arrest and authorize administrative traffic checkpoints under Section 77-23-104;
- (d) conduct an initial appearance in a felony;
- (e) conduct arraignments;
- (f) conduct a preliminary examination to determine probable cause;
- (g) appoint attorneys and order recoupment of attorney fees;
- (h) order the preparation of presentence investigations and reports;
- (i) issue temporary orders as provided by rule of the Judicial Council; and
- (j) perform any other act or function authorized by statute.

(2) A judge of the justice court may exercise the authority of a magistrate specified in Subsection (1) with the following limitations:

- (a) a judge of the justice court may conduct an initial appearance, preliminary examination, or arraignment in a felony case as provided by rule of the Judicial Council;
- (b) a judge of the justice court may not set bail in a capital felony nor deny bail in any case; and
- (c) a judge of the justice court may authorize administrative traffic checkpoints under Section 77-23-104 and issue search warrants only within the judicial district.

Section 38. Section **78A-2-221**, which is renumbered from Section 78-7-2 is renumbered and amended to read:

[78-7-2]. 78A-2-221. Justices and judges -- Limitations during terms.

~~No~~ A justice or judge of any court of record may not, during his term of office:

- (1) practice law or have a partner engaged in the practice of law;
- (2) hold office in or make any contribution to any political party or organization

774 engaged in political activity; or

775 (3) use, in his efforts to obtain or retain judicial office, any political party designation,
776 reference, or description.

777 Section 39. Section **78A-2-222**, which is renumbered from Section 78-7-1 is
778 renumbered and amended to read:

779 **~~[78-7-1].~~ 78A-2-222. Disqualification for interest or relation to parties.**

780 (1) Except by consent of all parties, ~~[no]~~ a justice, judge, or justice court judge may not
781 sit or act in any action or proceeding:

782 (a) to which he is a party, or in which he is interested;

783 (b) when he is related to either party by consanguinity or affinity within the third
784 degree, computed according to the rules of the common law; or

785 (c) when he has been attorney or counsel for either party in the action or proceeding.

786 (2) The provisions of this section do not apply to the arrangement of the calendar or
787 the regulation of the order of business, nor to the power of transferring the action or proceeding
788 to some other court.

789 Section 40. Section **78A-2-223**, which is renumbered from Section 78-7-25 is
790 renumbered and amended to read:

791 **~~[78-7-25].~~ 78A-2-223. Decisions to be rendered within two months --**

792 **Procedures for decisions not rendered.**

793 (1) A ~~[judge of a]~~ trial court judge shall decide all matters submitted for final
794 determination within two months of submission, unless circumstances causing the delay are
795 beyond the judge's personal control.

796 (2) The Judicial Council shall establish reporting procedures for all matters not decided
797 within two months of final submission.

798 Section 41. Section **78A-2-224**, which is renumbered from Section 78-7-46 is
799 renumbered and amended to read:

800 **~~[78-7-46].~~ 78A-2-224. Bases for certain decisions limited.**

801 (1) Except as provided in Subsection (2), no court may rule on the custody, placement,
802 including foster placement, or other disposition alternative for a minor, or the termination of
803 parental rights, based on the fact that a parent or guardian of the minor lawfully does one or
804 more of the following:

(a) legally possesses or uses a firearm or other weapon;
(b) espouses particular religious beliefs; or
(c) schools the minor or other minors outside the public education system or is otherwise sympathetic to schooling a minor outside the public education system.

(2) Subsection (1) does not prohibit a ruling based on the compatibility of a minor with a particular custody, placement, or other disposition alternative as determined by the presence of any of the factors in Subsections (1)(a) through (1)(c).

Section 42. Section **78A-2-225**, which is renumbered from Section 78-7-9.5 is renumbered and amended to read:

[78-7-9.5]. 78A-2-225. Judge of court of record -- Service in other division or court.

A judge of a court of record may serve temporarily as a judge in another geographic division or in another court of record, in accordance with the Utah Constitution and the rules of the Judicial Council.

Section 43. Section **78A-2-226**, which is renumbered from Section 78-7-19 is renumbered and amended to read:

[78-7-19]. 78A-2-226. Repeated application for orders forbidden.

(1) If an application for an order, made to a judge of a court in which the action or proceeding is pending, is refused in whole or in part or is granted conditionally, a subsequent application for the same order may not be made to any other judge, except of a higher court.

(2) This section does not apply to motions refused for any informality in the papers or proceedings necessary to obtain the order, or to motions refused with liberty to renew them.

(3) A notice of appeal for a trial de novo is not a subsequent application for the same order.

(4) A violation of Subsection (1) may be punished by contempt and any subsequent order may be revoked by the issuing judge or vacated by a judge of the court in which the action or proceeding is pending.

Section 44. Section **78A-2-227**, which is renumbered from Section 78-7-9 is renumbered and amended to read:

[78-7-9]. 78A-2-227. Appointment of attorney guardian ad litem in child abuse and neglect proceedings.

~~[(1) If child abuse, child sexual abuse, or neglect is alleged in any proceeding in any state court, the court may upon its own motion or shall upon the motion of any party to the proceeding appoint an attorney guardian ad litem to represent the best interest of the child, in accordance with Sections 78-3a-911 and 78-3a-912.]~~

~~[(2) The court may appoint an attorney guardian ad litem, when it considers it necessary and appropriate, to represent the best interest of the child in all related proceedings conducted in any state court involving the alleged abuse, child sexual abuse, or neglect.]~~

~~[(3) The attorney guardian ad litem shall be appointed in accordance with and meet the requirements of Sections 78-3a-911 and 78-3a-912.]~~

(1) An attorney guardian ad litem may be appointed in accordance with Title 78A, Chapter 6, Part 9, Guardian Ad Litem, if:

(a) child abuse, child sexual abuse, or neglect is alleged in any proceeding; or

(b) the court considers it appropriate in any proceedings involving alleged abuse, child sexual abuse, or neglect.

~~[(4)]~~ (2) If an attorney guardian ad litem has been appointed for the child by any court in the state in any prior proceeding or related matter, the court may continue that appointment or may reappoint that attorney guardian ad litem, if still available, to act on behalf of the child.

~~[(5)]~~ (3) The court is responsible for all costs resulting from the appointment of an attorney guardian ad litem and shall use funds appropriated by the Legislature for the guardian ad litem program to cover those costs.

~~[(6)]~~ (4) (a) If the court appoints the Office of the Guardian Ad Litem in a civil case pursuant to this section, the court may assess all or part of those attorney's fees, court costs, paralegal, staff, and volunteer expenses against the minor's parent, parents, or legal guardian in an amount that the court determines to be just and appropriate.

(b) The court may not assess those fees or costs against a legal guardian, when that guardian is the state, or against a parent, parents, or legal guardian who is found to be impecunious. If a person claims to be impecunious, the court shall require of that person an affidavit of impecuniosity as provided in Section ~~[78-7-36]~~ 78A-2-302 and the court shall follow the procedures and make the determinations as provided in Section ~~[78-7-36]~~ 78A-2-302.

(c) If the court appoints the Office of the Guardian Ad Litem in a criminal case

pursuant to this section and if the defendant is convicted of a crime which includes child abuse or neglect, the court shall include as part of the defendant's sentence all or part of the attorney's fees, court costs, and paralegal, staff, and volunteer expenses of the Office of the Guardian Ad Litem.

~~[(7)]~~ (5) An attorney guardian ad litem appointed in accordance with the requirements of this section and ~~[Sections 78-3a-911 and 78-3a-912]~~ Title 78A, Chapter 6, Part 9, Guardian Ad Litem is, when serving in the scope of duties of an attorney guardian ad litem, considered an employee of this state for purposes of indemnification under the Governmental Immunity Act.

Section 45. Section **78A-2-228**, which is renumbered from Section 78-7-45 is renumbered and amended to read:

~~[78-7-45].~~ **78A-2-228. Private attorney guardian ad litem -- Appointment -- Costs and fees -- Duties -- Conflicts of interest -- Pro bono obligation -- Indemnification -- Minimum qualifications.**

(1) (a) The court may appoint a private attorney as guardian ad litem to represent the best interests of the minor in any district court action in which the custody of or visitation with a minor is at issue. The attorney guardian ad litem shall be certified by the Director of the Office of the Guardian Ad Litem as having met the minimum qualifications for appointment, but ~~[shall]~~ may not be employed by or under contract with the Office of the Guardian Ad Litem.

(b) If an attorney guardian ad litem has been appointed for the minor in any prior or concurrent action and that attorney guardian ad litem is available, the court shall appoint that attorney guardian ad litem, unless good cause is shown why another attorney guardian ad litem should be appointed.

(c) If, after appointment of the attorney guardian ad litem, an allegation of abuse, neglect, or dependency of the minor is made the court shall:

(i) determine whether it is in the best interests of the minor to continue the appointment; or

(ii) order the withdrawal of the private attorney guardian ad litem and appoint the Office of the Guardian Ad Litem.

(2) (a) The court shall assess all or part of the attorney guardian ad litem fees, courts

costs, and paralegal, staff, and volunteer expenses against the parties in a proportion the court determines to be just.

(b) If the court finds a party to be impecunious, under the provisions of Section ~~[78-7-36]~~ 78A-2-302, the court may direct the impecunious party's share of the assessment to be covered by the attorney guardian ad litem pro bono obligation established in Subsection (6)(b).

(3) The attorney guardian ad litem appointed under the provisions of this section shall:

(a) represent the best interests of the minor from the date of the appointment until released by the court;

(b) conduct or supervise an independent investigation in order to obtain a clear understanding of the situation and needs of the minor;

(c) interview witnesses and review relevant records pertaining to the minor and the minor's family, including medical, psychological, and school records;

(d) if the minor is old enough to communicate and unless it would be detrimental to the minor:

(i) meet with and interview the minor;

(ii) determine the minor's goals and concerns regarding custody or visitation; and

(iii) counsel the minor regarding the nature, purpose, status, and implications of the case, of hearings, of recommendations, and proposals by parties and of court orders;

(e) conduct discovery, file pleadings and other papers, prepare and review orders, and otherwise comply with the Utah Rules of Civil Procedure as necessary to protect the best interest of the minor;

(f) unless excused by the court, prepare for and attend all mediation hearings and all court conferences and hearings, and present witnesses and exhibits as necessary to protect the best interests of the minor;

(g) identify community resources to protect the best interests of the minor and advocate for those resources; and

(h) participate in all appeals unless excused by the court.

(4) (a) The attorney guardian ad litem shall represent the best interests of a minor. If the minor's wishes differ from the attorney's determination of the minor's best interests, the attorney guardian ad litem shall communicate to the court the minor's wishes and the attorney's

determination of the minor's best interests. A difference between the minor's wishes and the attorney's determination of best interests is not sufficient to create a conflict of interest.

(b) The court may appoint one attorney guardian ad litem to represent the best interests of more than one minor child of a marriage.

(5) An attorney guardian ad litem appointed under this section is immune from any civil liability that might result by reason of acts performed within the scope of duties of the attorney guardian ad litem.

(6) (a) Upon the advice of the Director of the Office of the Guardian Ad Litem, the Judicial Council shall by rule establish the minimum qualifications and requirements for appointment by the court as an attorney guardian ad litem.

(b) An attorney guardian ad litem may be required to appear pro bono in one case for every five cases in which the attorney is appointed with compensation.

~~[(7) This section shall be effective in the Second, Third, and Fourth Judicial Districts on July 1, 2001, and in the remaining judicial districts of the state on July 1, 2002.]~~

Section 46. Section **78A-2-301**, which is renumbered from Section 78-7-35 is renumbered and amended to read:

Part 3. Court Fees and Waivers

~~[78-7-35].~~ **78A-2-301. Civil fees of the courts of record -- Courts complex design.**

(1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is \$155.

(b) The fee for filing a complaint or petition is:

(i) \$50 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$95 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) \$155 if the claim for damages or amount in interpleader is \$10,000 or more;

(iv) \$155 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance; and

(v) \$25 for a motion for temporary separation order filed under Section 30-3-4.5.

(c) The fee for filing a small claims affidavit is:

(i) \$45 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less; and

(ii) \$70 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000.

(d) The fee for filing a counter claim, cross claim, complaint in intervention, third party complaint, or other claim for relief against an existing or joined party other than the original complaint or petition is:

(i) \$45 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$75 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) \$105 if the original petition is filed under Subsection (1)(a), the claim for relief is \$10,000 or more, or the party seeks relief other than monetary damages; and

(iv) \$85 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance.

(e) The fee for filing a small claims counter affidavit is:

(i) \$35 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less; and

(ii) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000.

(f) The fee for depositing funds under Section 57-1-29 when not associated with an action already before the court is determined under Subsection (1)(b) based on the amount deposited.

(g) The fee for filing a petition is:

(i) \$75 for trial de novo of an adjudication of the justice court or of the small claims department; and

(ii) \$55 for an appeal of a municipal administrative determination in accordance with Section 10-3-703.7.

(h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or petition for writ of certiorari is \$205.

(i) Except for a petition filed under Subsection 77-18-10(2), the fee for filing a

petition for expungement is \$65.

(ii) There is no fee for a petition filed under Subsection 77-18-10(2).

(j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges' Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges' Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement Act.

(ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be allocated by the state treasurer to be deposited in the restricted account, Children's Legal Defense Account, as provided in Section 63-63a-8.

(iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g), and (1)(r) shall be allocated to and deposited with the Dispute Resolution Fund as provided in Section 78-31b-9.

(iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv), (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court Security Account, as provided in Section 63-63c-102.

(v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court Security Account, as provided in Section ~~[63-63c-102]~~ 78A-2-602.

(k) The fee for filing a judgment, order, or decree of a court of another state or of the United States is \$25.

(l) The fee for filing probate or child custody documents from another state is \$25.

(m) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the Utah State Tax Commission is \$30.

(ii) The fee for filing an abstract or transcript of judgment of a court of law of this state or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing officer of this state or of its political subdivisions other than the Utah State Tax Commission, is \$40.

(n) The fee for filing a judgment by confession without action under Section 78-22-3 is \$25.

(o) The fee for filing an award of arbitration for confirmation, modification, or

1022 vacation under Title [78] 78B, Chapter [31a] 11, Utah Uniform Arbitration Act, that is not part
1023 of an action before the court is \$25.

1024 (p) The fee for filing a petition or counter-petition to modify a decree of divorce is \$40.

1025 (q) The fee for filing any accounting required by law is:

1026 (i) \$10 for an estate valued at \$50,000 or less;

1027 (ii) \$20 for an estate valued at \$75,000 or less but more than \$50,000;

1028 (iii) \$40 for an estate valued at \$112,000 or less but more than \$75,000;

1029 (iv) \$80 for an estate valued at \$168,000 or less but more than \$112,000; and

1030 (v) \$150 for an estate valued at more than \$168,000.

1031 (r) The fee for filing a demand for a civil jury is \$75.

1032 (s) The fee for filing a notice of deposition in this state concerning an action pending in
1033 another state under Utah Rule of Civil Procedure 26 is \$25.

1034 (t) The fee for filing documents that require judicial approval but are not part of an
1035 action before the court is \$25.

1036 (u) The fee for a petition to open a sealed record is \$25.

1037 (v) The fee for a writ of replevin, attachment, execution, or garnishment is \$35 in
1038 addition to any fee for a complaint or petition.

1039 (w) (i) The fee for a petition for authorization for a minor to marry required by Section
1040 30-1-9 is \$5.

1041 (ii) The fee for a petition for emancipation of a minor provided in Title [78] 78A,
1042 Chapter [3a] 6, Part [10] 8, Emancipation, is \$50.

1043 (x) The fee for a certificate issued under Section 26-2-25 is \$2.

1044 (y) The fee for a certified copy of a document is \$4 per document plus 50 cents per
1045 page.

1046 (z) The fee for an exemplified copy of a document is \$6 per document plus 50 cents
1047 per page.

1048 (aa) The Judicial Council shall by rule establish a schedule of fees for copies of
1049 documents and forms and for the search and retrieval of records under Title 63, Chapter 2,
1050 Government Records Access and Management Act. Fees under this Subsection (1)(aa) shall be
1051 credited to the court as a reimbursement of expenditures.

1052 (bb) There is no fee for services or the filing of documents not listed in this section or

1053 otherwise provided by law.

1054 (cc) Except as provided in this section, all fees collected under this section are paid to
1055 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk
1056 accepts the pleading for filing or performs the requested service.

1057 (dd) The filing fees under this section may not be charged to the state, its agencies, or
1058 political subdivisions filing or defending any action. In judgments awarded in favor of the
1059 state, its agencies, or political subdivisions, except the Office of Recovery Services, the court
1060 shall order the filing fees and collection costs to be paid by the judgment debtor. The sums
1061 collected under this Subsection (1)(dd) shall be applied to the fees after credit to the judgment,
1062 order, fine, tax, lien, or other penalty and costs permitted by law.

1063 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts
1064 shall transfer all revenues representing the difference between the fees in effect after May 2,
1065 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of
1066 Facilities Construction and Management Capital Projects Fund.

1067 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities
1068 Construction and Management shall use up to \$3,750,000 of the revenue deposited in the
1069 Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to
1070 initiate the development of a courts complex in Salt Lake City.

1071 (B) If the Legislature approves funding for construction of a courts complex in Salt
1072 Lake City in the 1995 Annual General Session, the Division of Facilities Construction and
1073 Management shall use the revenue deposited in the Capital Projects Fund under this Subsection
1074 (2)(a)(ii) to construct a courts complex in Salt Lake City.

1075 (C) After the courts complex is completed and all bills connected with its construction
1076 have been paid, the Division of Facilities Construction and Management shall use any monies
1077 remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal
1078 District Court building.

1079 (iii) The Division of Facilities Construction and Management may enter into
1080 agreements and make expenditures related to this project before the receipt of revenues
1081 provided for under this Subsection (2)(a)(iii).

1082 (iv) The Division of Facilities Construction and Management shall:

1083 (A) make those expenditures from unexpended and unencumbered building funds

1084 already appropriated to the Capital Projects Fund; and

1085 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for
1086 under this Subsection (2).

1087 (b) After June 30, 1998, the administrator of the courts shall ensure that all revenues
1088 representing the difference between the fees in effect after May 2, 1994, and the fees in effect
1089 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted
1090 account.

1091 (c) The Division of Finance shall deposit all revenues received from the court
1092 administrator into the restricted account created by this section.

1093 (d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall
1094 transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor
1095 Vehicles, in a court of record to the Division of Facilities Construction and Management
1096 Capital Projects Fund. The division of money pursuant to Section ~~[78-3-14.5]~~ 78A-5-110 shall
1097 be calculated on the balance of the fine or bail forfeiture paid.

1098 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer
1099 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in
1100 a court of record to the Division of Finance for deposit in the restricted account created by this
1101 section. The division of money pursuant to Section ~~[78-3-14.5]~~ 78A-5-110 shall be calculated
1102 on the balance of the fine or bail forfeiture paid.

1103 (3) (a) There is created within the General Fund a restricted account known as the State
1104 Courts Complex Account.

1105 (b) The Legislature may appropriate monies from the restricted account to the
1106 administrator of the courts for the following purposes only:

1107 (i) to repay costs associated with the construction of the court complex that were
1108 funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

1109 (ii) to cover operations and maintenance costs on the court complex.

1110 Section 47. Section **78A-2-302**, which is renumbered from Section 78-7-36 is
1111 renumbered and amended to read:

1112 ~~[78-7-36].~~ **78A-2-302. Impecunious litigants -- Affidavit.**

1113 (1) For purposes of ~~[this section]~~ Sections 78A-2-302 through 78A-2-309:

1114 (a) "Convicted" means a conviction by entry of a plea of guilty or nolo contendere,

1115 guilty and mentally ill, no contest, and conviction of any crime or offense.

1116 (b) "Prisoner" means a person who has been convicted of a crime and is incarcerated
1117 for that crime or is being held in custody for trial or sentencing.

1118 (2) As provided in this chapter, any person may institute, prosecute, defend, and appeal
1119 any cause in any court in this state without prepayment of fees and costs or security, by taking
1120 and subscribing, before any officer authorized to administer an oath, an affidavit of
1121 impecuniosity demonstrating financial inability to pay fees and costs or give security.

1122 (3) The affidavit shall contain complete information on the party's:

1123 (a) identity and residence;

1124 (b) amount of income, including government financial support, alimony, child support;

1125 (c) assets owned, including real and personal property;

1126 (d) business interests;

1127 (e) accounts receivable;

1128 (f) securities, checking and savings account balances;

1129 (g) debts; and

1130 (h) monthly expenses.

1131 (4) If the party is a prisoner, he shall also disclose the amount of money held in his
1132 prisoner trust account at the time the affidavit is executed as provided in Section [78-7-38]
1133 78A-2-305.

1134 (5) In addition to the financial disclosures, the affidavit shall state the following:

1135 I, A B, do solemnly swear or affirm that due to my poverty I am unable to bear the
1136 expenses of the action or legal proceedings which I am about to commence or the appeal which
1137 I am about to take, and that I believe I am entitled to the relief sought by the action, legal
1138 proceedings, or appeal.

1139 Section 48. Section **78A-2-303**, which is renumbered from Section 78-7-43 is
1140 renumbered and amended to read:

1141 ~~[78-7-43].~~ **78A-2-303. False affidavit -- Penalty.**

1142 ~~[If it is made to appear to the court by affidavit that the affidavit or affirmation is~~
1143 ~~untrue, or that the action or appeal is frivolous or malicious or without merit, the court may~~
1144 ~~make a rule on the affiant, fixing a day not less than five days from the date of service of such~~
1145 ~~notice, requiring such affiant to appear at a fixed time and place to show cause, if any he has,~~

~~why he should not give bond and security for the costs of his action or appeal, or pay the legal fees therefor, and, on failure so to do, why his action or appeal should not be dismissed. Should the court be of the opinion that the affidavit or affirmation is untrue, or that said action or appeal is frivolous, malicious or without merit, the court in which such action or appeal is pending may dismiss it.]~~

(1) A person may assert by affidavit that an affidavit of impecuniosity, action, or appeal is:

(a) false;

(b) frivolous or without merit; or

(c) malicious.

(2) Upon receipt of an affidavit in accordance with Subsection (1), the court may notify the affiant of the challenge and set a date, not less than five days from receipt of the notice, requiring the affiant to appear and show cause why the affiant should not be required to:

(a) post a bond for the costs of the action or appeal; or

(b) pay the legal fees for the action or appeal.

(3) The court may dismiss the action or appeal if:

(a) the affiant does not appear;

(b) the affiant appears and the court determines the affidavit is false, frivolous, without merit, or malicious; or

(c) the court orders the affiant to post a bond or pay the legal fees and the affiant fails to do so.

Section 49. Section **78A-2-304**, which is renumbered from Section 78-7-37 is renumbered and amended to read:

[78-7-37]. 78A-2-304. Effect of filing affidavit -- Nonprisoner.

(1) Upon the filing of the oath or affirmation with any Utah court by a nonprisoner, the court shall review the affidavit and make an independent determination based on the information provided whether court costs and fees should be waived entirely or in part. Notwithstanding the party's statement of inability to pay court costs, the court shall require a partial or full filing fee where the financial information provided demonstrates an ability to pay a fee.

(2) In instances where fees or costs are completely waived, the court shall immediately

file any complaint or papers on appeal and do what is necessary or proper as promptly as if the litigant had fully paid all the regular fees. The constable or sheriff shall immediately serve any summonses, writs, process and subpoenas, and papers necessary or proper in the prosecution or defense of the cause, for the impecunious person as if all the necessary fees and costs had been fully paid.

(3) However, in cases where an impecunious affidavit is filed, the judge shall question the person who filed the affidavit at the time of hearing the cause as to his ability to pay. If the judge opines that the person is reasonably able to pay the costs, the judge shall direct the judgment or decree not be entered in favor of that person until the costs are paid. The order may be cancelled later upon petition if the facts warrant cancellation.

Section 50. Section **78A-2-305**, which is renumbered from Section 78-7-38 is renumbered and amended to read:

~~[78-7-38].~~ 78A-2-305. Effect of filing affidavit -- Procedure for review and collection.

~~[(1) As used in this section, "prisoner" means a person who has been convicted of a crime and is incarcerated for that crime or is being held in custody for trial or sentencing.]~~

~~[(2)]~~ (1) (a) Upon receipt of the oath or affirmation filed with any Utah court by a prisoner, the court shall immediately request the institution or facility where the prisoner is incarcerated to provide an account statement detailing all financial activities in the prisoner's trust account for the previous six months or since the time of incarceration, whichever is shorter.

(b) The incarcerating facility shall:

(i) prepare and produce to the court the prisoner's six-month trust account statement, current trust account balance, and aggregate disposable income; and

(ii) calculate aggregate disposable income by totaling all deposits made in the prisoner's trust account during the six-month period and subtracting all funds automatically deducted or otherwise garnished from the account during the same period.

~~[(3)]~~ (2) The court shall:

(a) review both the affidavit of impecuniosity and the financial account statement; and

(b) based upon the review, independently determine whether or not the prisoner is financially capable of paying all the regular fees and costs associated with filing the action.

1208 ~~[(4)]~~ (3) When the court concludes that the prisoner is unable to pay full fees and costs,
1209 the court shall assess an initial partial filing fee equal to 50% of the prisoner's current trust
1210 account balance or 10% of the prisoner's six-month aggregate disposable income, whichever is
1211 greater.

1212 ~~[(5)]~~ (4) (a) After payment of the initial partial filing fee, the court shall require the
1213 prisoner to make monthly payments of 20% of the preceding month's aggregate disposable
1214 income until the regular filing fee associated with the civil action is paid in full.

1215 (b) The agency having custody of the prisoner shall:

1216 (i) garnish the prisoner's account each month; and

1217 (ii) once the collected fees exceed \$10, forward payments to the clerk of the court until
1218 the filing fees are paid.

1219 (c) Nothing in this section may be construed to prevent the agency having custody of
1220 the prisoner from withdrawing funds from the prisoner's account to pay court-ordered
1221 restitution.

1222 ~~[(6)]~~ (5) Collection of the filing fees continues despite dismissal of the action.

1223 ~~[(7)]~~ (6) The filing fee collected may not exceed the amount of fees permitted by
1224 statute for the commencement of a civil action or an appeal of a civil action.

1225 Section 51. Section **78A-2-306**, which is renumbered from Section 78-7-39 is
1226 renumbered and amended to read:

1227 ~~[78-7-39].~~ **78A-2-306. Notice of filing fee -- Consequence of nonpayment.**

1228 (1) When an affidavit of impecuniosity has been filed and the court assesses an initial
1229 filing fee, the court shall immediately notify the litigant in writing of:

1230 (a) the initial filing fee required as a prerequisite to proceeding with the action;

1231 (b) the procedure available to challenge the initial filing fee assessment as provided in
1232 Section ~~[78-7-40]~~ 78A-2-307; and

1233 (c) the inmate's ongoing obligation to make monthly payments until the entire filing fee
1234 is paid.

1235 (2) The court may not authorize service of process or otherwise proceed with the
1236 action, except as provided in Section ~~[78-7-40]~~ 78A-2-307, until the initial filing fee has been
1237 completely paid to the clerk of the court.

1238 Section 52. Section **78A-2-307**, which is renumbered from Section 78-7-40 is

1239 renumbered and amended to read:

1240 ~~[78-7-40].~~ **78A-2-307. Filing fee challenge -- Court powers.**

1241 (1) Within ten days of receiving court notice requiring an initial filing fee under
1242 Section ~~[78-7-39]~~ 78A-2-306, the litigant may contest the fee assessment by filing a
1243 memorandum and supporting documentation with the court demonstrating inability to pay the
1244 fee.

1245 (2) The court shall review the memorandum and supporting documents challenging the
1246 fee assessment for facial validity.

1247 (3) The court may reduce the initial filing fee, authorize service of process, or
1248 otherwise proceed with the action without prepayment of costs and fees if the memorandum
1249 shows the litigant:

1250 (a) has lost his source of income;

1251 (b) has unaccounted nondiscretionary expenses limiting his ability to pay;

1252 (c) will suffer immediate irreparable harm if the action is unnecessarily delayed; or

1253 (d) will otherwise lose the cause of action by unnecessary delays associated with
1254 securing funds necessary to satisfy the assessed filing fee.

1255 (4) Nothing in this section shall be construed to relieve the litigant from the ongoing
1256 obligation of monthly payments until the filing fee is paid in full.

1257 Section 53. Section **78A-2-308**, which is renumbered from Section 78-7-41 is
1258 renumbered and amended to read:

1259 ~~[78-7-41].~~ **78A-2-308. Failure to serve papers -- Penalty.**

1260 Any justice court judge, clerk, or officer refusing to file or serve the papers is guilty of a
1261 class B misdemeanor.

1262 Section 54. Section **78A-2-309**, which is renumbered from Section 78-7-42 is
1263 renumbered and amended to read:

1264 ~~[78-7-42].~~ **78A-2-309. Liability for fees if successful in litigation.**

1265 Nothing ~~[herein contained]~~ in this part shall prevent a justice court judge, clerk,
1266 constable, or sheriff from collecting ~~[his]~~ their regular fees for all services ~~[so]~~ rendered for
1267 ~~[such poor]~~ the impecunious person, in the event the ~~[poor]~~ person is successful in ~~[his]~~
1268 litigation~~[, and all]~~. All fees and costs shall be regularly taxed and included in any judgment
1269 recovered by the ~~[poor]~~ person~~[, and the]~~. The fees and costs shall be paid to a justice court

1270 judge, clerk, constable, or sheriff. If the ~~[poor]~~ person fails in ~~[his]~~ the action or appeal, then
1271 the costs of the action or appeal shall be adjudged against ~~[him]~~ the person.

1272 Section 55. Section **78A-2-401**, which is renumbered from Section 78-56-101 is
1273 renumbered and amended to read:

1274 **Part 4. Court Reporter Act**

1275 ~~[78-56-101].~~ **78A-2-401. Title.**

1276 This ~~[chapter]~~ part is known as the "Court Reporter Act."

1277 Section 56. Section **78A-2-402**, which is renumbered from Section 78-56-102 is
1278 renumbered and amended to read:

1279 ~~[78-56-102].~~ **78A-2-402. Definitions.**

1280 As used in this ~~[chapter]~~ part:

1281 (1) "Certified court reporter" has the same meaning as in Title 58, Chapter 74, Certified
1282 Court Reporters Licensing Act.

1283 (2) "Folio" means 100 words. A number expressed as a numeral counts as one word;
1284 however, any portion of the last folio is not counted.

1285 (3) "Official court reporter" means a certified court reporter employed by the courts.

1286 (4) "Official court transcriber" means a person certified in accordance with rules of the
1287 Judicial Council as competent to transcribe into written form an audio or video recording of
1288 court proceedings.

1289 Section 57. Section **78A-2-403**, which is renumbered from Section 78-56-103 is
1290 renumbered and amended to read:

1291 ~~[78-56-103].~~ **78A-2-403. Appointment of reporters -- Eligibility -- Oath --**
1292 **Bond -- Action on bond.**

1293 (1) A person may not be appointed to the position of court reporter nor act in the
1294 capacity of a court reporter in any court of record of this state, or before any referee, master,
1295 board, or commission of this state without a currently valid license from the Division of
1296 Occupational and Professional Licensing as provided in Title 58, Chapter 74, Certified Court
1297 Reporters Licensing Act.

1298 (2) Before any person may act as a court reporter ~~[begins his duties, he]~~, the person
1299 shall:

1300 (a) take, subscribe, and file the constitutional oath; and

(b) give a bond with sufficient surety, conditioned ~~[for]~~ upon the faithful performance of ~~[his]~~ all duties, in the sum of \$2,500, or larger sum if ordered by the judge.

(3) The bond shall run to the state of Utah, but an action on it may be maintained by any person whose rights are affected by the failure of the reporter to perform ~~[his]~~ the reporter's official duties.

Section 58. Section **78A-2-404**, which is renumbered from Section 78-56-104 is renumbered and amended to read:

~~**[78-56-104].**~~ **78A-2-404. Court reporters -- Contract restrictions.**

(1) Any contract for court reporting services, not related to a particular case or reporting incident, is prohibited between a court reporter or any other person with whom a court reporter has a principal and agency relationship and any attorney, party to an action, or party having a financial interest in an action. Negotiating or bidding reasonable fees, equal to all the parties, on a case-by-case basis may not be prohibited.

(2) A certified court reporter is an officer of the court whose impartiality shall remain beyond question.

(3) This section does not apply to the courts or the administrative tribunals of this state.

(4) Violation of this section shall be considered unprofessional conduct as provided in Sections 58-74-102 and 58-74-502, and shall be grounds for revocation of licensure only.

Section 59. Section **78A-2-405**, which is renumbered from Section 78-56-105 is renumbered and amended to read:

~~**[78-56-105].**~~ **78A-2-405. Record of court proceedings -- Duties of court reporter.**

(1) The Judicial Council shall by rule provide for the means of maintaining the record of proceedings in the courts of record by official court reporters or by electronic recording devices.

(2) The official court reporter assigned to a session of court shall take full verbatim stenographic notes of the session, except when the judge dispenses with the verbatim record.

(3) The official court reporter shall immediately file with the clerk of the court the original stenographic notes of the court session and the computer disk on which the notes are stored. If not already on file with the clerk of the court, the official court reporter shall file a computer disk containing the reporter's most current dictionary showing the meaning of the

1332 reporter's stenographic notes.

1333 (4) Upon request and the payment of fees established by Section ~~[78-56-108]~~

1334 78A-2-408, the official court reporter shall transcribe the stenographic notes or video or audio
1335 recording of the court session and furnish the transcript to the requesting party.

1336 Section 60. Section **78A-2-406**, which is renumbered from Section 78-56-106 is
1337 renumbered and amended to read:

1338 ~~[78-56-106].~~ **78A-2-406. Substitute reporters.**

1339 A certified court reporter other than an official court reporter may be assigned
1340 temporarily to the duties of an official court reporter in accordance with rules of the Judicial
1341 Council.

1342 Section 61. Section **78A-2-407**, which is renumbered from Section 78-56-107 is
1343 renumbered and amended to read:

1344 ~~[78-56-107].~~ **78A-2-407. Compensation -- Traveling expenses --**
1345 **Frequency of payment.**

1346 The compensation of an official court reporter shall be fixed in accordance with salary
1347 schedules for state court employees. The official court reporter shall also be paid for traveling
1348 expenses actually and necessarily incurred in the performance of duties in accordance with
1349 Judicial Council policy.

1350 Section 62. Section **78A-2-408**, which is renumbered from Section 78-56-108 is
1351 renumbered and amended to read:

1352 ~~[78-56-108].~~ **78A-2-408. Transcripts and copies -- Fees -- Establishment**
1353 **of Court Reporting Technology Account.**

1354 (1) The Judicial Council shall by rule provide for a standard page format for transcripts
1355 of court hearings.

1356 (2) (a) The fee for a transcript of a court session, or any part of a court session, shall be
1357 \$3.50 per page, which includes the initial preparation of the transcript and one certified copy.
1358 The preparer shall deposit the original transcript with the clerk of the court and provide the
1359 person requesting the transcript with the certified copy. The cost of additional copies shall be
1360 as provided in Subsection ~~[78-7-35]~~ 78A-2-301(1). The transcript for an appeal shall be
1361 prepared within the time period permitted by the rules of Appellate Procedure. The fee for a
1362 transcript prepared within three business days of the request shall be 1-1/2 times the base rate.

1363 The fee for a transcript prepared within one business day of the request shall be double the base
1364 rate.

1365 (b) When a transcript is ordered by the court, the fees shall be paid by the parties to the
1366 action in equal proportion or as ordered by the court. The fee for a transcript in a criminal case
1367 in which the defendant is found to be impecunious shall be paid pursuant to Section 77-32-305.

1368 (c) There is established within the General Fund a restricted account known as the
1369 Court Reporting Technology Account. The clerk of the court shall transfer to the state
1370 treasurer for deposit into this account all fees received under this section. The state court
1371 administrator may draw upon this account for the purchase, development, and maintenance of
1372 court reporting technologies and for other expenses necessary for maintaining a verbatim
1373 record of court sessions.

1374 (3) The fee for the preparation of a transcript of a court hearing by an official court
1375 transcriber other than an official court reporter and the fee for the preparation of the transcript
1376 by a certified shorthand reporter of a hearing before any referee, master, board, or commission
1377 of this state shall be as provided in Subsection (2)(a), and shall be payable to the person
1378 preparing the transcript.

1379 Section 63. Section **78A-2-409**, which is renumbered from Section 78-56-109 is
1380 renumbered and amended to read:

1381 ~~[78-56-109].~~ **78A-2-409. Certified transcripts prima facie correct.**

1382 A transcript of an official court reporter's notes, written in longhand or typewritten,
1383 certified by ~~him~~ the court reporter as being a correct transcript of evidence and proceedings,
1384 is prima facie a correct statement of the evidence and proceedings.

1385 Section 64. Section **78A-2-410**, which is renumbered from Section 78-56-110 is
1386 renumbered and amended to read:

1387 ~~[78-56-110].~~ **78A-2-410. Transcripts taxed as costs.**

1388 A transcript may not be taxed as costs, unless the preparation of the transcript is ordered
1389 either by a party or by the court.

1390 Section 65. Section **78A-2-411**, which is renumbered from Section 78-56-111 is
1391 renumbered and amended to read:

1392 ~~[78-56-111].~~ **78A-2-411. Crimes.**

1393 Any violation of the provisions of this chapter, except Section ~~[78-56-104]~~ 78A-2-404,

1394 is a misdemeanor.

1395 Section 66. Section **78A-2-501**, which is renumbered from Section 78-28-1 is
1396 renumbered and amended to read:

1397 **Part 5. Online Court Assistance Act**

1398 ~~[78-28-1].~~ **78A-2-501. Online court assistance program -- Purpose of program**
1399 **-- User's fee.**

1400 (1) There is established an online court assistance program administered by the
1401 Administrative Office of the Courts to provide the public with information about civil
1402 procedures and to assist the public in preparing and filing civil pleadings and other papers in:

- 1403 (a) uncontested divorces;
1404 (b) enforcement of orders in the divorce decree;
1405 (c) landlord and tenant actions; and
1406 (d) other types of proceedings approved by the Online Court Assistance Program
1407 Policy Board.

1408 (2) The purpose of the online court assistance program shall be to:

- 1409 (a) minimize the costs of civil litigation;
1410 (b) improve access to the courts; and
1411 (c) provide for informed use of the courts and the law by pro se litigants.

1412 (3) (a) An additional \$20 shall be added to the filing fee established by Section
1413 ~~[78-7-35]~~ **78A-2-301** if a person files a complaint, petition, answer, or response prepared
1414 through the program. There shall be no fee for using the program or for papers filed
1415 subsequent to the initial pleading.

1416 (b) There is created within the General Fund a restricted account known as the Online
1417 Court Assistance Account. The fee collected under this Subsection (3) shall be deposited in the
1418 restricted account and appropriated by the Legislature to the Administrative Office of the
1419 Courts to develop, operate, and maintain the program and to support the use of the program
1420 through education of the public.

1421 Section 67. Section **78A-2-502**, which is renumbered from Section 78-28-2 is
1422 renumbered and amended to read:

1423 ~~[78-28-2].~~ **78A-2-502. Creation of policy board -- Membership -- Terms --**
1424 **Chair -- Quorum -- Expenses.**

1425 (1) There is created a 13 member policy board to be known as the " Online Court
1426 Assistance Program Policy Board" which shall:

1427 (a) identify the subject matter included in the Online Court Assistance Program;
1428 (b) develop information and forms in conformity with the rules of procedure and
1429 evidence; and

1430 (c) advise the Administrative Office of the Courts regarding the administration of the
1431 program.

1432 (2) The voting membership shall consist of:

1433 (a) two members of the House of Representatives [~~to be~~] designated by the speaker,
1434 with one member from each party;

1435 (b) two members of the Senate designated by the president, with one member from
1436 each party;

1437 (c) two attorneys actively practicing in domestic relations designated by the Family
1438 Law Section of the Utah State Bar;

1439 (d) one attorney actively practicing in civil litigation designated by the Civil Litigation
1440 Section of the Utah State Bar;

1441 (e) one court commissioner designated by the chief justice of the Utah Supreme Court;

1442 (f) one district court judge designated by the chief justice of the Utah Supreme Court;

1443 (g) one attorney from Utah Legal Services designated by its director;

1444 (h) one attorney from Legal Aid designated by its director; and

1445 (i) two persons from the Administrative Office of the Courts designated by the state
1446 court administrator.

1447 (3) (a) The terms of the members shall be four years and staggered so that
1448 approximately half of the board expires every two years.

1449 (b) The board shall meet as needed.

1450 (4) The board shall select one of its members to serve as chair.

1451 (5) A majority of the members of the board constitutes a quorum.

1452 (6) (a) (i) Members who are not government employees shall receive no compensation
1453 or benefits for their services, but may receive per diem and expenses incurred in the
1454 performance of the member's official duties at the rates established by the Division of Finance
1455 under Sections 63A-3-106 and 63A-3-107.

1456 (ii) Members may decline to receive per diem and expenses for their service.

1457 (b) (i) State government officer and employee members who do not receive salary, per
1458 diem, or expenses from their agency for their service may receive per diem and expenses
1459 incurred in the performance of their official duties from the board at the rates established by the
1460 Division of Finance under Sections 63A-3-106 and 63A-3-107.

1461 (ii) State government officer and employee members may decline to receive per diem
1462 and expenses for their service.

1463 (c) Legislators on the committee shall receive compensation and expenses as provided
1464 by law and legislative rule.

1465 Section 68. Section **78A-2-601**, which is renumbered from Section 63-63c-101 is
1466 renumbered and amended to read:

1467 **Part 6. Court Security**

1468 **~~[63-63c-101].~~ 78A-2-601. Security surcharge -- Application and**
1469 **exemptions -- Deposit in restricted account.**

1470 (1) In addition to any fine, penalty, forfeiture, or other surcharge, a security surcharge
1471 of \$25 shall be assessed in all courts of record on all criminal convictions and juvenile
1472 delinquency judgments.

1473 (2) The security surcharge may not be imposed upon:

1474 (a) nonmoving traffic violations;

1475 (b) community service; and

1476 (c) penalties assessed by the juvenile court as part of the nonjudicial adjustment of a
1477 case under Section ~~[78-3a-502]~~ 78A-6-602.

1478 (3) The security surcharge shall be collected after the surcharge under Section
1479 63-63a-1, but before any fine, and deposited with the state treasurer. A fine that would
1480 otherwise have been charged may not be reduced due to the imposition of the security
1481 surcharge.

1482 (4) The state treasurer shall deposit the collected security surcharge in the restricted
1483 account, Court Security Account, as provided in Section ~~[63-63c-102]~~ 78A-2-602.

1484 Section 69. Section **78A-2-602**, which is renumbered from Section 63-63c-102 is
1485 renumbered and amended to read:

1486 **~~[63-63c-102].~~ 78A-2-602. Court Security Account established -- Funding --**

1487 **Uses.**

1488 (1) There is created a restricted account in the General Fund known as the Court
1489 Security Account.

1490 (2) The state treasurer shall deposit in the Court Security Account:

1491 (a) collected monies from the surcharge established in Section [~~63-63c-101~~]

1492 78A-2-601;

1493 (b) monies from the portion of filing fees established in Subsections [~~78-7-35~~]

1494 78A-2-301(1)(j)(iv) and (v); and

1495 (c) amounts designated by Subsection [~~78-5-116.5~~] 78A-7-122(3)(b)(ii).

1496 (3) The Administrative Office of the Courts shall use the allocation only to contract for
1497 court security at all district and juvenile courts, including perimeter security at stand alone
1498 juvenile courts, throughout the state.

1499 **Section 70. Repealer.**

1500 This bill repeals:

1501 Section **78-3-17.5, Application of savings accruing to counties.**

1502 Section **78-7-4, Right to exclude in certain cases.**

1503 Section **78-7-18, Power to punish for contempt.**

1504 Section **78-7-20, Disobedience, contempt.**